



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/895,881 | 06/29/2001 | Brad E. Paden | 2673.2.1 | 5381 |
| 21552 | 7590 | 11/13/2003 | EXAMINER | |
| MADSON & METCALF GATEWAY TOWER WEST SUITE 900 15 WEST SOUTH TEMPLE SALT LAKE CITY, UT 84101 | | | SMITH, TYRONE W | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2837 | |

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------|--------------------------------------|-------------------------------------|--|
| Advisory Action | Application No. 09/895,881 | Applicant(s) PADEN ET AL. | |
| | Examiner Tyrone W Smith | Art Unit 2837 | |

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): claims 61-66 based on 35 U.S.C. 102(e).
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ADVISORY ACTION

1. The Declaration under 37 CFR 1.132 filed October 23, 2003 is sufficient to overcome the rejection of claims 61-66 based upon the applicant(s) establishing that relevant portions of the reference, Bearnson (6,394,769), originated with or were obtained by the applicant(s). Further, showing under 37 CFR 1.132 that any invention disclosed but claimed in the reference was derived from the invention of the application and is thus not invented "by another". The applicant overcome the 35 U.S.C. 102(e) rejection based on the submitted and signed Declaration under 37 CFR 1.132. Refer to M.P.E.P Chapter 700 sections 715-716.

2. Applicant's arguments filed October 23, 2003 have been fully considered but they are not persuasive.

Applicant argues that the references Barada et al (JP2001-074049), which is the equivalent of Barada (6404088), and Ueyama (6215218) does not teach storing a plurality of displacement outputs over a period of time and adjusting the displacement output to account for a sensor offset estimated using stored displacement outputs. The reference of Ueyama, stated by the Applicant, uses a DSP board, ROM and flash memory. The Applicant argues that the ROM by its nature may be written only a single time which the following cannot be modified and the ROM is not to store displacement signals measured by components of the device. The flash memory, as argued by the Applicant, provides no teaching of the device writing sensor data of any type to the table of the memory. Examiner understands and takes into account the arguments of the Applicant.

Examiner rejections are based on the claim language as presented. Ueyama discloses a control magnetic bearing system. The system includes a displacement detection section with

three (plurality) displacement sensors and a controller (Figure 3 item 2; column 6 lines 31-55) with a DSP board and DSP in Figure 3 item 18, which is a form of microprocessor; a sensor circuit receives displacement output information from the displacement detection section. The DSP in Figure 3 item 18 can store displacement and other information for further use since it is a microprocessor/CPU. The flash memory does receive and store, based on the specification and Figure 3, information from the DSP. Barada teaches a control means for converting the adjusted displacement output to a force for positioning the movable body and an actuator/driver, refer to Figure 1 item 14, for positioning the movable body with force to a point of substantial axial equilibrium. Examiner suggests that the Applicant amend the claims to overcome the 35 U.S.C. 103(a) rejection and keeping in mind that the rejection is based on the claims as presented.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tyrone W Smith whose telephone number is 703-306-5987. The examiner can normally be reached on weekdays from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on 308-3370. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3431.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Tyrone Smith
Patent Examiner

Art Unit 2837


ROBERT NAPPI
SUPERVISORY PATENT EXAMINER